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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,457	04/04/2006	John Carroll	P06958US0	9728
34082	7590	10/07/2008	EXAMINER	
ZARLEY LAW FIRM P.L.C. CAPITAL SQUARE 400 LOCUST, SUITE 200 DES MOINES, IA 50309-2350			WATKINS III, WILLIAM P	
		ART UNIT		PAPER NUMBER
		1794		
		MAIL DATE	DELIVERY MODE	
		10/07/2008	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/574,457	CARROLL, JOHN
	<b>Examiner</b>	<b>Art Unit</b>
	William P. Watkins III	1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 26 April 2006.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-14 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-14 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 04 April 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>1/19/2007</u> .	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

1. As a matter of claim numbering, claims 1-14 are pending and claims 15-17 are canceled. Any future amendment should reference canceled claims 15-17 and any added claims should start using claim numbers 18 and beyond. There were 17 original claims, which were reduced to 14 by the Article 19 amendment, which were further amended by the preliminary amendment filed 04 April 2006. Any future amendments should conform to U.S. claim numbering practice as noted above, and not PCT practice.

2. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear if how the phrase "(i.e. without any dome-like configurations, projections or extensions in the regions where the apertures are)" modifies the claim structure. It is not clear if this phrase is merely an example of a "regular or plain or normally plain surface" or if further limitation of "regular or plain or normally plain surface" is intended.

3. Claims 1-3, 6-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laaksonen (WO 03/041525 A1) in view of Rayfield et al. (U.S. 4,242,769).

Laaksonen teaches a foam layer with slits to allow breath-ability that is joined to a fabric layer and can be used in flotation devices (abstract, page 4, first paragraph). Rayfield et al. teaches the use of a breathable water impermeable fabric as an outer layer in a floatation device (col. 1, line 65 through col. 2, line 20). The instant invention claims a foam layer with slits next to a breathable waterproof fabric. It would have been obvious to one of ordinary skill in the art to have used a waterproof breathable fabric as the fabric of Laaksonen in order to protect the user of the jacket from moisture.

4. Claims 4-5 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laaksonen (WO 03/041525 A1) in view of Rayfield et al. (U.S. 4,242,769) as applied to claims 1-3, 6-12 and 14 above, and further in view of Tsai (GB 2 312 643 A).

Tsai teaches the use of "Y", "V" and other slit patterns that allow breath-ability in foam layers. The instant invention claims foam layers with various slit patterns that allow breath-ability. It would have been obvious to one of ordinary skill in the art to have used various cross type slit patterns in the foam layer of Laaksonen in view of Rayfield in order to optimize the breath-ability for a given application because of the teachings of Tsai.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kent teaches slits in a foam layer in a flotation device. The other references are cited on the International Search report.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 571-272-1503. The examiner works an increased flex time schedule, but can normally be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WW/ww  
October 7, 2008

/William P. Watkins III/  
Primary Examiner, Art Unit 1794